

House File 558 - Introduced

HOUSE FILE 558
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 157)

A BILL FOR

1 An Act relating to disruptive and disorderly conduct by
2 creating a civil action for disruptive conduct at services
3 for deceased military service members, making changes to
4 disorderly conduct offenses, and including remedies and
5 penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 723.4, subsection 6, paragraph a, Code
2 2015, is amended to read as follows:

3 a. Knowingly and publicly uses the flag of the United States
4 ~~in such a manner as to show disrespect for the flag as a symbol~~
5 ~~of the United States,~~ or of the state of Iowa with the intent or
6 reasonable expectation that such use will provoke or encourage
7 another to commit trespass or assault.

8 Sec. 2. Section 723.4, subsection 6, paragraph b, Code 2015,
9 is amended by striking the paragraph.

10 Sec. 3. Section 723.5, subsection 1, unnumbered paragraph
11 1, Code 2015, is amended to read as follows:

12 A person shall not do any of the following within ~~five~~
13 ~~hundred~~ one thousand feet of the building or other location
14 where a funeral or memorial service is being conducted, or
15 within ~~five hundred~~ one thousand feet of a funeral procession
16 or burial:

17 Sec. 4. Section 723.5, subsection 1, Code 2015, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. d. Knowingly and publicly use the flag of
20 the United States, the flag of the state of Iowa, a flag of a
21 military unit or division of the armed forces of the United
22 States or of the state military forces, or a flag recognizing
23 prisoners of war, with the intent or reasonable expectation
24 that such use will provoke or encourage another to commit
25 trespass or assault. For the purposes of this paragraph, "*flag*
26 *of the United States*" includes all previous flags of the United
27 States.

28 Sec. 5. Section 723.5, subsection 3, unnumbered paragraph
29 1, Code 2015, is amended to read as follows:

30 A person who commits a violation of ~~this section~~ subsection
31 1, paragraphs "a" through "c" commits:

32 Sec. 6. Section 723.5, Code 2015, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 4. A person who commits a violation of
35 subsection 1, paragraph "d", commits a class "D" felony.

1 Sec. 7. NEW SECTION. 723.6 Civil liability for infliction
2 of emotional distress at services for deceased military service
3 members.

4 1. For the purposes of this section:

5 *a.* "Emotional distress" means temporary or permanent
6 emotional distress, emotional discomfort, embarrassment,
7 humiliation, or grief, whether slight, moderate, or severe.

8 *b.* "Family member" means a parent, spouse, child, or sibling
9 of a military service member.

10 *c.* "Military service member" means a member of the United
11 States armed forces who died while serving on active duty
12 during a time of military conflict or who died as a result of
13 such service.

14 2. A family member of a military service member in
15 attendance or another person in attendance at the funeral,
16 memorial service, funeral procession, or burial of a military
17 service member has a right of action against a person for
18 infliction of emotional distress upon the family member or
19 other person in attendance.

20 3. A person commits infliction of emotional distress upon
21 the family member or other person in attendance if the person
22 intentionally or knowingly engages in disruptive conduct within
23 one thousand feet of the building or other location where a
24 funeral or memorial service for the military service member
25 is being conducted, or within one thousand feet of a funeral
26 procession for or burial of a military service member, with the
27 purpose or effect of causing, or with reckless disregard of
28 the probability of causing, emotional distress upon the family
29 member or other person.

30 4. *a.* Liquidated damages for infliction of emotional
31 distress upon a family member shall be ten thousand dollars for
32 each plaintiff who is a family member, and recoverable damages
33 shall include reasonable attorney fees.

34 *b.* Liquidated damages for infliction of emotional distress
35 upon any other person in attendance shall be five thousand

1 dollars for each plaintiff who is not a family member, and
2 recoverable damages shall include reasonable attorney fees.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill relates to disruptive and disorderly conduct.
7 The bill creates a civil right of action for certain persons
8 affected by certain disruptive conduct and makes changes to
9 disorderly conduct offenses.

10 Under current law, it is a simple misdemeanor (disorderly
11 conduct) to knowingly and publicly use the flag of the United
12 States in such a manner as to show disrespect for the flag as
13 a symbol of the United States, with the intent or reasonable
14 expectation that such use will provoke or encourage another
15 to commit trespass or assault. Current law defines showing
16 disrespect as defacing, defiling, mutilating, or trampling the
17 flag. The bill extends this offense to include the flag of the
18 State of Iowa, but removes the element of the offense related
19 to showing disrespect for the flag as a symbol of the United
20 States. A simple misdemeanor is punishable by confinement for
21 no more than 30 days or a fine of at least \$65 but not more than
22 \$625 or by both.

23 Current law also includes offenses for disorderly conduct
24 occurring in proximity to a funeral or memorial service. The
25 bill changes the distance restriction from 500 feet to 1,000
26 feet. The bill also establishes a new offense within that
27 category of disorderly conduct for knowingly and publicly using
28 the flag of the United States, of the state of Iowa, or of a
29 military unit or division of the armed forces of the United
30 States or of the state military forces, or a flag recognizing
31 prisoners of war, with the intent or reasonable expectation
32 that such use will provoke or encourage another to commit
33 trespass or assault. The bill provides that the term "flag of
34 the United States" includes all previous flags of the United
35 States for the purposes of this offense. A class "D" felony

1 is punishable by confinement for no more than five years and a
2 fine of at least \$750 but not more than \$7,500.

3 The bill also creates a civil action for infliction of
4 emotional distress. A person commits infliction of emotional
5 distress upon a family member of a military service member
6 or another attendee if the person intentionally or knowingly
7 engages in disruptive conduct within 1,000 feet of the building
8 or other location where a funeral or memorial service is being
9 conducted, or within 1,000 feet of a funeral procession or
10 burial for a military service member with the purpose or effect
11 of causing, or with reckless disregard of the probability of
12 causing, emotional distress to the family of a military service
13 member or another attendee at the funeral, memorial service,
14 funeral procession, or burial of a military service member.
15 The bill provides definitions for the terms emotional distress,
16 family member, and military service member.

17 The bill provides that liquidated damages for infliction of
18 emotional distress upon a family member of a military service
19 member or another attendee shall be \$10,000 for each plaintiff
20 who is a family member and \$5,000 for each plaintiff who is not
21 a family member. The bill also provides that damages shall
22 include reasonable attorney fees.